

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK GARNES,

Plaintiff,

-v-

PRITCHARD INDUSTRIES, INC. and LOCAL 32BJ SEIU,

Defendants.

CIVIL ACTION NO. 23 Civ. 10707 (PAE) (SLC)

ORDER OF SERVICE

SARAH L. CAVE, United States Magistrate Judge.

I. INTRODUCTION

Plaintiff Mark Garnes (“Mr. Garnes”), who is appearing pro se, brings this action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq. (“Title VII”), and 42 U.S.C. § 1981 (“Section 1981”), alleging that his employer, Defendant Pritchard Industries, Inc. (“Pritchard”), discriminated against him based on his race, religion, and national origin, and retaliated against him. (ECF No. 1 (the “Complaint”)).¹ Mr. Garnes also appears to assert claims against his union, Local 32BJ SEIU (“32BJ”), pertaining to his efforts to arbitrate his claims against Pritchard. (Id.) The Court construes the Complaint as also asserting claims under the New York State Human Rights Law (“NYSHRL”), N.Y. Exec. Law §§ 296, et seq., and the New York City Human Rights Law (“NYCHRL”), N.Y.C. Admin. Code §§ 8-101, et seq., against Pritchard. On December 12, 2023, the Court granted Mr. Garnes’ request to proceed in forma pauperis (“IFP”), that is, without prepayment of fees.

¹ This is the fourth action Mr. Garnes has commenced in this Court asserting employment discrimination against Pritchard. See 20 Civ. 3843 (Garnes I); 22 Civ. 10674 (Garnes II); 23 Civ. 6699 (Garnes III). Garnes I and Garnes II are stayed (20 Civ. 3843, ECF No. 52; 22 Civ. 10674, ECF No. 22), and a motion to dismiss and/or to compel arbitration is pending in Garnes III (23 Civ. 6699, ECF No. 9).

II. DISCUSSION

Because Mr. Garnes has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service (the “U.S. Marshals”) to effect service.² Walker v. Schult, 717 F.3d 119, 123 n.6 (2d Cir. 2013); see also 28 U.S.C. § 1915(d) (“[t]he officers of the court shall issue and serve all process . . . in [IFP] cases”); Fed. R. Civ. P. 4(c)(3) (instructing that the court “must” order the U.S. Marshals to serve “if the plaintiff is authorized to proceed [IFP]”).

To allow Mr. Garnes to effect service on Pritchard and 32BJ through the U.S. Marshals, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return Form (“USM-285 Form”) for Pritchard and 32BJ. The Clerk of Court is further instructed to issue summonses and deliver to the U.S. Marshals all the paperwork necessary for the U.S. Marshals to effect service upon Pritchard and 32BJ.

If the Complaint is not served within 90 days after the date the summonses are issued, Mr. Garnes should request an extension of time for service. See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is plaintiff’s responsibility to request an extension of time for service).

Mr. Garnes must notify the Court in writing if his address changes, and the Court may dismiss the action if Mr. Garnes fails to do so.

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, here, the Court extends the time to serve until 90 days after the date the summons is issued.

III. CONCLUSION

The Clerk of Court is instructed to (i) complete the USM-285 Form with the addresses for Pritchard and 32BJ below and deliver to the U.S. Marshals all documents necessary to effect service, and (ii) mail an information package and a copy of this Order, to Mr. Garnes. Mr. Garnes may receive Court documents by email by completing the attached form, [Consent to Electronic Service](#).³

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. Cf. [Coppedge v. United States](#), 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

Dated: New York, New York
December 12, 2023

SO ORDERED.



SARAH L. CAVE
United States Magistrate Judge

³ If Mr. Garnes consents to receive documents by email, Mr. Garnes will no longer receive Court documents by regular mail.

DEFENDANTS AND SERVICE ADDRESSES

Pritchard Industries, Inc.
150 East 42nd Street, 7th Floor
New York, NY 10017

Local 32BJ SEIU
23 West 18th Street
New York, NY 10019

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Please list all your pending and terminated cases to which you would like this consent to apply. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Date

Signature



**United States District Court
Southern District of New York**

Pro Se (Nonprisoner) Consent to Receive Documents Electronically

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER¹ at www.pacer.uscourts.gov or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one “free look” at the document by clicking on the hyperlinked document number in the e-mail.² Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first “free look” or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the “free look” to avoid future charges.*

IMPORTANT NOTICE

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court’s Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your “free look” and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;
4. It will be your duty to regularly review the docket sheet of the case.³

¹ Public Access to Court Electronic Records (PACER) (www.pacer.uscourts.gov) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

² You must review the Court’s actual order, decree, or judgment and not rely on the description in the email notice alone. See ECF Rule 4.3

³ The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk’s Office at the Court.

PRO SE INTAKE WINDOW LOCATIONS:

40 FOLEY SQUARE | NEW YORK, NY 10007
300 QUARROPAS STREET | WHITE PLAINS, NY 10601

MAILING ADDRESS:

500 PEARL STREET | NEW YORK, NY 10007
PRO SE INTAKE UNIT: 212-805-0136